

C.M. asks the Utah Labor Commission to review Administrative Law Judge Sessions' denial of Mr. M.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

BACKGROUND AND ISSUES PRESENTED

Mr. M.'s claim for workers' compensation benefits has a long history. He filed applications with the Commission during December 2000 and February 2001 for temporary total disability compensation, permanent partial disability compensation and medical expenses for a low-back injury that he attributed to three separate work-related accidents. The first accident occurred on June 6, 1986, while Mr. M. was employed by Midgley. The second accident occurred on September 21, 2000, while Mr. M. was employed by Staffing Solutions, on assignment to Microtech. The third accident occurred on October 9, 2000, while Mr. M. worked for Black Diamond.

Judge Eblen held an evidentiary hearing on Mr. M.'s claims, but before she issued her decision, Mr. M. settled his claims against Staffing Solutions, Black Diamond, and their respective insurance carriers. Judge Eblen's subsequent decision denied Mr. M.'s remaining claims against Midgley on the grounds that the injury for which Mr. M. was seeking benefits was not the result of the 1986 accident at Midgley.

Mr. M. then sought Commission review of Judge Eblen's decision. On August 30, 2003, the Commission denied Mr. M.'s claims for temporary total disability compensation because the Workers' Compensation Act provides such compensation only for eight years from the date of accident. The Commission denied Mr. M.'s claim for permanent partial disability compensation because he had already received that compensation. Finally, the Commission remanded Mr. M.'s claim for additional medical expenses to the Adjudication Division to determine whether Mr. M.'s most recent medical treatment had been necessary to treat the 1986 injury at Midgley.

Because Judge Eblen had resigned her position with the Commission, Judge Sessions assumed responsibility for the adjudication of Mr. M.'s claim. Judge Sessions obtained clarification of the medical panel's opinion and then, on March 15, 2005, issued his decision denying Mr. M.'s claims for additional temporary total disability compensation and payment of additional medical expense.

Mr. M. requests Commission review of Judge Sessions' decision on the grounds that 1) Mr. M.'s medical care was necessary to treat medical conditions that were the natural result of his 1986 work injury; and 2) Judge Sessions erred in denying Mr. M.'s claim for additional temporary total disability compensation.

DISCUSSION AND CONCLUSION OF LAW

Mr. M.'s right to payment of additional medical expense. In its previous decision, the Commission concluded Midgley is liable for the expense of medical treatment of Mr. M.'s 1986 low back injury as well as the expense of subsequent medical treatment for subsequent injuries that are the natural result of the original 1986 injury. This principle is simple to state, but its application depends on medical evidence and opinion of a causal connection between an initial injury and subsequent complications or aggravations of that injury. The parties have submitted medical opinions that disagree whether Mr. M.'s ongoing medical problems are the natural result of his 1986 injury. To resolve this conflict, Judge Eblen and Judge Sessions relied on the opinion of an impartial panel of medical experts. The panel has provided the following assessment:

To a reasonably degree of medical certainty, the medical panel finds that the medical causes for this claimant's fusion surgery, in order of importance, are: 1) chronic degenerative disease of the spine (mostly related to hereditary conditions) 2) previous spine surgery 3) spinal injuries over one decade ago 4) poor physical conditioning 5) lifting injury on July 31, 2000 at Micro Tech Polyseal.

Of particular significance is the medical panel's opinion of a medical causal connection between Mr. Morgan's spine injury and surgery related to the 1986 Midgley accident and Mr. Morgan's subsequent medical problems. While the 1986 Midgley injury and spinal surgery may not be the only causes of Mr. M.'s ongoing medical problems, it is sufficient that the injury and surgery are a contributing cause of those problems. As the Utah Court of Appeals stated in McKesson Corporation v. Labor Commission, 41 P.3d 468, 472 (Utah App. 2002) (internal quotations and punctuation omitted; emphasis added):

[A] claimant need not show that his original tragedy was the sole cause of his subsequent injury. Indeed, if the claimant can show that the initial work-related accident is merely a contributing cause of the subsequent injury, the claimant has met his burden.

The Commission finds that the 1986 Midgley injury and surgery are contributing causes to Mr. M.'s need for subsequent surgery. Midgley is therefore liable for the expense of such surgery.

Temporary total disability compensation: Mr. M.'s claim against Midgley for temporary total disability compensation has already been considered and rejected by the Commission's decision of August 30, 2003. It was therefore improper for Judge Session to address that issue in his decision of March 15, 2005. The Commission's earlier determination remains in effect.

ORDER

The Commission grants Mr. M.'s motion for review with respect to Midgley's liability for additional medical expenses. The Commission hereby orders Midgley to pay the cost of Mr. M.'s fusion surgery of April 23, 2001, and such other medical costs as are necessary to treat Mr. M.'s 1986 work-related back injury.

The Commission reaffirms its previous denial of Mr. M.'s claim for additional temporary total disability compensation.

It is so ordered.

Dated this 12th day of October, 2005

R. Lee Ellertson, Commissioner